

MEMORANDUM

320069

TO: Lloyd T. Kaiser

cc: Earlis Wagner

FROM: Norman B. Hjersted

DATE: 6-27-80

SUBJECT: McDonnell Electronics Bad Load

Please refer to your memorandum to me dated June 24th, subject contamination of T-557 at McDonnell Electronics load of 3-21-80. There are several points of logic that were overlooked in the discussion between you and McDonnell Electronics.

1. Earlis Wagner reported to me immediately upon receipt of this particular load a formation of gas within the trailer and upon arriving at our St. Louis plant.
2. We receive literally hundreds of loads of material of only two categories: Iron chloride or iron sulfate solutions and the other one waste stream from McDonnell Electronics.

If as McDonnell contends one of our drivers is ^{our -} repetitiously picking up materials from other waste producers and hauling them, then it is more probable that this would happen with the preponderants of loads and not happen only with this one particular load from McDonnell Electronics. In other words this phenomena has only occurred on the one or two occasions that waste has been hauled from them. In addition I would think that we could account for the time that the tractor trailer was in service, numbers of miles and show that our driver could not be doing this kind of work on the side. They are right in contending that it is possible since in the past this has been done at our Gary plant.

I believe that we have sufficient logs to account for the miles and the time our units were in service in this period. It is my belief that you only have two alternatives: Establish the creditability of our own people or discontinue service with McDonnell Electronics immediately.

Should the driver not be proven free of the possibility of picking up other material or examination of their records would show some cause for doubt I would accept their contention and continue service with them keeping a better eye on our drivers. However, if accounting for their time can show conclusively that side trips could never have occurred then I feel there point was invalid.

I believe it important to establish the honesty of our own people. If we accept their accusation as being possible and continue to serve them then we are forever open to liabilities should our trailer be damaged again without any recourse.

In conclusion I am inclined to drop them and bill them for those damages. I feel it would be good, however, to include Earlis' testimony about the formation of gas on receipt of the load and account for the driver's time in some time period proceeding the load delivery.

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I believe it is perfectly clear with all concerned but under no circumstances should we bring in waste into our plant which we know would require disposal after July 1.

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MEMORANDUM

TO: Norman B. Hjersted

FROM: Lloyd T. Kaiser

DATE: 6-24-80

SUBJECT: Contamination Of T-557 At McDonnell Electronics By A Load
Picked Up On 3-21-80

320070

On 6-23-80 Earlis Wagner and I met with Edward Thames and Robert Bishoff at McDonnell Electronics facility in St. Charles, Missouri. The purpose of our meeting was to discuss the damage to our trailer and storage tank resulting from unidentified contaminants in a load of chromic acid picked up at their facility on 3-21-80. I reiterated the facts to them regarding the pickup and the measures that we took to identify the material in the load which caused the waste to have a peculiar odor and uncharacteristic discoloration. For the most part, both parties agreed to the facts and circumstances surrounding this incident both at the time of the pickup and the steps that were taken following the incident except that Bob Bishoff claimed that he did not tell Earlis that they had cleaned out some miscellaneous chemicals in their lab which might have gotten into the tank. He did indicate that they had cleaned out a storage room during this period of time, but that the chemicals that would have been discarded would have gone out in drums.

Earlis took a sample of the material and had it analyzed. He also provided McDonnell Electronics with a sample of the material. McDonnell Electronics acknowledges that the sample that Earlis brought to them contained an odorous contaminant. We know that this sample came from the load that we picked up from McDonnell Electronics. McDonnell Electronics contends that the sample did not come from the load that we picked up from their facility. Obviously, this is the crux of the dispute. McDonnell Electronics contends that they would have no objection whatsoever to paying for repairs to our trailer and storage tank if they could confirm that the material came from their facility. They indicated that they had conducted a thorough investigation and could find no evidence that a keytone solvent or any other type of solvent could have gotten into the storage tank. They had taken samples from the bottom of the tank after we indicated to them that we had a problem and a odorous material in the load. Although they did not provide us with a copy of their analysis, they indicated that this sample had no odor to it and the results showed that it had no solvents.

Mr. Thames indicated that as a purchasing agent, he is constantly in an adversary role with the production department. Since he is the one who interacts with the vendors, it is necessary for him to be cognizant of their needs and problems. The production people are concerned with producing and don't really care about the outside world. I believe that Ed Thames is convinced, based upon his investigation, that the material probably did not come from McDonnell Electronics. I believe that Robert Bishoff knows that there is a likelihood that it could have come from McDonnell Electronics and that it probably did come from McDonnell Electronics. However, being in a production it is in his best interests to contend and show that this happen. I believe and I know that Earlis believes that the material came from McDonnell Electronics.

This brings us to a Mexican standoff. McDonnell Electronics says that they will not pay for repairing the trailer because to do so would be an admission of guilt on their part. They firmly believe that they were not guilty in this particular instance. They point out that it is possible our driver could have picked up some material surreptitiously. Again, Earlis and I both discount this as being a possibility.

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In accessing what to do at this point, I look at several facts. First of all, our known out of pocket cost at this point are \$685 for trailer repairs and \$75 for the cost to run the analysis for solvents. Secondly, the individual from Nelco who inspected the trailer indicated that it was his opinion that the damage to the lining was not caused by chemical attack. Based upon my past experience in dealing with the rubber lining in T-560, I know that there is no absolute answer regarding the cause of rubber lining failures. Therefore, I tend to treat that comment as an opinion subject to debate. In any event, we did not examine the trailer immediately before putting the contaminated chromic acid in the unit and cannot say for certain that the damage which was sustained by the trailer is attributable solely to McDonnell Electronic's material. This same fact holds true for the storage tank. Thirdly, the Gates Rubber manual which outlines the appropriate linings to use with various types of chemicals indicates that butyl rubber is an acceptable lining for methyl ethyl ketone up to 1000. Methyl ethyl ketone is the solvent that was found present in the sample. In combination with other chemicals, methyl ethyl ketone may not be compatible with butyl rubber, but it is a factor which I take into consideration when I attempt to evaluate the cause of the damage to the lining.

Based upon the facts surrounding this situation and the dollar value of our out of pocket cost to date, I would recommend that we not pursue any legal remedies against McDonnell Electronics. Although I believe they gave us a load of material that contained odorous solvents that should not have been in the material, I do not feel that our position is strong enough to successfully pursue legal actions for damages.

I believe that we must evaluate whether or not we want to continue to work with McDonnell Electronics in view of their stand on this matter. Although I don't know whether it has any bearings from a legal standpoint, I believe that we could use this as a reason to justify not wanting to pick up their material through August 31st, 1980. I advised them that we would not store the material after July 1st, 1980 at the St. Louis plant. I FOIA indicated to them that we would pick up material and charge them [REDACTED] per gallon and Exem. 4 [REDACTED] per load, but would require a minimum of 4,000 gallons on each pickup. Mr. Thames indicated that he would get back with me regarding our notice to them that we would not accept material and store it at the plant after July 1st, 1980. He reminded us that we had accepted a purchase order to pickup the material through August 31st, 1980. In looking through the file, I find that Debra accepted this purchase order extending the contract on 6-3-80.

I believe that we should wait until McDonnell Electronics comes back to us and indicates what action they want to take with respect to the performance of the contract and their plans to install a storage tank before we take further action. I do not plan to write a letter to Mr. Thames advising him that we will not pick up their material after July 1st, 1980. I believe that it would be in our best interest to avoid putting this in writing since the purchase order terms make no provision for cancellation by the vendor.

A copy of the analysis on the samples taken from McDonnell Electronics material is attached.

LTK/bjg

LTK 6/25/80
Lloyd T. Kaiser

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ENVIRONMENTAL ANALYSIS, INC.

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ANALYTICAL CHEMISTRY - RESEARCH - FIELD STUDIES

3363 PARKER SPUR

FLORISSANT, MO. 63033

June 12, 1980
Report No. 6318
P. O. No. 24808

Mr. E. Wagner
Conservation Chemical Company
Post Office Box 5472
St. Louis, Missouri 63160

REPORT OF ANALYSIS

Subject: Analysis of Liquid Sample by Gas Chromatography and Nuclear Magnetic Resonance Spectroscopy.

Sample Identification: Liquid Sample Identified as: "Conservation Chemical Company, St. Louis Date: 3-21-80
Cust: Mac Elec B/L #: 18288".

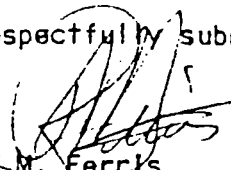
Results of Analysis:

The following three components were revealed.

<u>Retention Time</u>	<u>Component</u>	<u>Per Cent</u>
2.2 min.	methyl ethyl ketone	0.36 %
5.0 min..	water	98.02 %
28.8 min.	unknown	1.62 %

Water and methyl ethyl ketone were identified by comparison of retention times with known samples.

Respectfully submitted,


R. M. Ferris
President, EAI

RMF/jaf

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